

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
ELKINS**

JENNIFER GAMMONS,

Plaintiff,

v.

**Civil Action No. 2:12-CV-52
(BAILEY)**

**MICHAEL ASTRUE,
COMMISSIONER OF SOCIAL
SECURITY,**

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation of United States Magistrate Judge David J. Joel [Doc. 15] dated December 11, 2012. Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, failure to file objections to the magistrate judge's proposed findings and recommendation permits the District Court to review the recommendation under the standards that the District Court believes are appropriate, and under these circumstances, the parties' right to *de novo* review is waived. See *Webb v. Califano*, 468 F. Supp. 825 (E.D. Cal. 1979). The docket reflects that service was accepted on December 12, 2012. No objections have been filed.

This comes as no surprise to this Court as it appears the plaintiff has completely abandoned her appeal. Since this Court granted her request to proceed *in forma pauperis* on July 23, 2012 [Doc. 4], the plaintiff has failed to submit any further filings. After the Commissioner filed his Answer and the Administrative Record on September 27, 2012

[Docs. 8 & 9], this Court entered its Order Directing the Parties to Adhere to the Procedures, Deadlines and Pleading Requirements of Local Rule of Civil Procedure 9.02 [Doc. 11]. As such, the plaintiff was directed to file her Motion for Summary Judgment by October 27, 2012. She failed to comply. Subsequently, on November 14, 2012, this Court entered an Order for Plaintiff to Show Cause Within Fourteen Days why her case should not be dismissed for failure to prosecute under Fed. R. Civ. P. 41(b) [Doc. 13]. Again, to date, the plaintiff has not submitted any filings. As such, the magistrate judge has recommended that this Court dismiss this action for failure to prosecute.

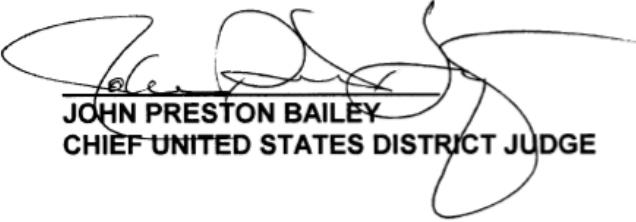
Accordingly, because no objections have been filed, this report and recommendation ("R & R") will be reviewed for clear error. Upon review of the R & R and the record, it is the opinion of this Court that the Magistrate Judge's Report and Recommendation **[Doc. 15]** should be, and is, hereby **ORDERED ADOPTED**.

For reasons more fully stated in the Report and Recommendation of United States Magistrate Judge David J. Joel [Doc. 15], this Court **ORDERS** that this action be **DISMISSED WITHOUT PREJUDICE** for failure to file a Motion for Summary Judgment as required by LR Civ P 9.02 and as further required by the magistrate judge's Order dated November 14, 2012 [Doc. 13]. Accordingly, this matter is hereby **ORDERED STRICKEN** from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record and to the *pro se* plaintiff.

DATED: January 2, 2013.



JOHN PRESTON BAILEY
CHIEF UNITED STATES DISTRICT JUDGE